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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/003,077      | 11/02/2001  | Glory F. Ceman       | KCC 4776 (17,047)   | 5328             |

321 7590 05/12/2005

SENNIGER POWERS LEAVITT AND ROEDEL  
ONE METROPOLITAN SQUARE  
16TH FLOOR  
ST LOUIS, MO 63102

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| EXAMINER |
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AHMAD, NASSER

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

1772

DATE MAILED: 05/12/2005

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| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|

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| EXAMINER |
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| ART UNIT | PAPER |
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05102005

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Attached herewith is a courtesy copy of the Examiner's Answer that was mailed on 08/11/2004.

The Examiner's Answer did not include the initials of one of the Appeal Conferee. The attached courtesy corrected copy has the initials of both the Conferees.


The corrected copy is being forwarded to the Board of Patent Appeals and Interferences.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on Monday through Thursday from 7:30AM to 5:00PM. The examiner can also be reached on alternate Friday

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

N. Ahmad.  
May 10, 2005.

  
Nasser Ahmad  
Primary Examiner  
Art Unit: 1772



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| SENNIGER POWERS LEAVITT AND ROEDEL<br>ONE METROPOLITAN SQUARE<br>16TH FLOOR<br>ST LOUIS, MO 63102 |             |                      | AHMAD, NASSER       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1772                |                  |

DATE MAILED: 08/11/2004

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/003,077  
Filing Date: November 02, 2001  
Appellant(s): CEMAN ET AL.

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Kurt F. James  
For Appellant

**EXAMINER'S ANSWER**

**MAILED**

AUG 11 2004

**GROUP 1700**

This is in response to the appeal brief filed June 1, 2004.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 25-37 (Group I) and 38-52 (Group II) do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

|           |             |        |
|-----------|-------------|--------|
| 5,429,630 | BEAL et al. | 7-1995 |
| 5,147,698 | COLE        | 9-1992 |

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beal (5429630) in view of Cole (5147698).

Beal relates to a laminated structure (10) which is an absorbent article. The structure comprises a body (16) having a peripheral edge, a first side and a second opposite side, an adhesive attachment means (36) and a release paper (46) covering the adhesive. A plurality of laminated structure can be provided in a package or a container with instruction provided thereon (col. 2, lines 22-37). However, Beal fails to teach that the release paper has indicia printed thereon. Cole discloses a laminated adhesive structure, including a release paper which covers the unprotected adhesive. The outer side of the release paper is provided with indicia such as logo, decorative design, instruction, etc. to promote and assist in the use of the product. Therefore, it would have

been obvious to one having ordinary skill in the art to utilize Cole's teaching of using printed indicia on the release paper in the invention of Beal for assisting the user.

Claims 38-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beal in view of Cole.

Beal relates to a laminated structure (10) which is an absorbent article. The structure comprises a body (16) having a peripheral edge, a first side and a second opposite side, an adhesive attachment means (36) and a release paper (46) covering the adhesive. A plurality of laminated structure can be provided in a package or container with instruction provided thereon (col. 2, lines 22-37). However, Beal fails to teach that the release paper has indicia printed thereon. Cole discloses a laminate adhesive structure, including a release paper which covers the unprotected adhesive. The outer side of the release paper is provided with indicia such as logo, decorative design, instructions, etc. to promote and assist in the use of the product. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Cole's teaching of using printed indicia on the release paper of Beal to promote the product in that it provides for inspiration to use the product, entertains and motivates the user to use the product, etc.

**(11) Response to Argument**

Appellant argues that the references of Beal and Cole fails to show or suggest a feminine care product having all the features recited in Claim 25, particularly the text

message. This is not deemed to be persuasive as brought to the appellant's attention in the Office Action of 12/1/2003 (Final Action). While Beal clearly teaches a feminine care product with the release liner and the Cole reference expressly discloses the presence of text message or indicia on the release liner as acknowledged by the appellant in the amendment filed on 09/8/2003. The message on the liner of Cole includes logo, decorative design, instruction for use, etc. (see Cole, col. 7, lines 8-11). Therefore, the combination of the references show and suggest a feminine care product with the release liner having text message printed thereon. Appellant is again informed here that the logo could provide for motivating the user, inspiring the user, or even educating the user. For example, a particular logo promotes the quality and performance of a product and would draw the attention of a user, motivate and inspire to use said product instead of the general or generic products. At the same time, the logo would educate the user in using quality product. Similarly, the presence of decorative design on the release liner would not only entertain the user, it will also provide for inspiration and motivation to the user because the decorative design is appealing and attractive to impart positive response from the user.

In response to the argument that "a logo could be or include text, but is source designator...which is positively excluded from the scope of claim 25", appellant should note that a logo can also provide for motivation, education and inspiration to the user regarding the product and its use as explained a fortiori hereinabove.

Appellant argues that the subject matter of the message in the adhesive covering is entitled to patentable weight. Appellant is again informed that the subject matter has



been considered but is not found to be of positive limitation to the structure of the product claimed. The presence of text fails to add to the structure of the claimed feminine care product structure.

Regarding claim 38, the above grounds of explanations apply a fortiori herein. The above reasoning also apply to the presence of text message on the release covering of the product as claimed. Additionally, the presence of decorative design on the release liner would impart positive response from the user.


Appellant has also cited In re Gulack, 703 F.2d 1381 (Fed. Cir. 1983); In re Miller, 164 USPQ 46 (CCPA 1969); and In re Royka, 180 USPQ 580 (CCPA 1974) to support that the text message be given patentable weight. Appellant should note that the text has been given consideration as explained in the last Office Action of 12/1/2003. However, it has not been given any patentable weight because it does not impart any structure to the product nor provides any functional relationship to the product. This aspect has been noted in In re Gulack which teaches a functional relationship between the article band and the digits printed thereon. Appellant is informed that the instant claims on appeal is directed to a feminine care product and the text message on its release liner fails to provide any functional relationship between the product and the printed indicia.

Similarly, the cases of In re Miller and In re Royka are also directed to printed indicia and its functional relationship to the product.

Art Unit: 1772

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

  
Nasser Ahmad  
Primary Examiner  
Art Unit 1772

N. Ahmad.  
August 9, 2004

Conferees:

  
Harold Pyon  
SPE Art Unit 1772

Deborah Jones   
SPE Art Unit 1775

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